

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE: APPLICATION OF MARE SHIPPING, :  
INC. and APOSTOLOS MANGOURAS :

Applicant, :

v. :

THE AMERICAN BUREAU OF SHIPPING. :  
INC., :

Respondent. :  
-----X

1:12-mc-00357-P1

**SUPPLEMENTAL EX PARTE APPLICATION PURSUANT TO 28 U.S.C. § 1782 FOR  
ORDER COMPELLING DISCOVERY FOR USE IN A FOREIGN LITIGATION**

Applicants, Mare Shipping Inc. (“Mare”) and Apostolos Mangouras (“Mangouras”) (collective referred to as “Applicants”) by and through their undersigned attorneys hereby move this Honorable Court for an Order, pursuant to 28 U.S.C. § 1782, directing the American Bureau of Shipping Inc. (“ABS”), a corporation with offices located in New York, New York, to produce documents for use in a proceeding in a foreign tribunal, specifically in Madrid, Spain, in accordance with the Supplemental Subpoena attached to the Supplemental Declaration of Thomas L. Tisdale as Exhibit B. Applicants respectfully request that the Court order that the documents be produced at the offices of the undersigned, unless otherwise agreed by the parties, on or before December 21, 2012.

In further support of this Supplemental Application, Applicants submit simultaneously herewith their Memorandum of Law together with the Supplemental Declaration of Thomas L. Tisdale and respectfully refer the Court to all of the previously filed pleadings and supporting documents filed in this action.

**I. BACKGROUND**

Applicants are interested parties with respect to certain criminal and civil actions currently pending in the Kingdom of Spain (the “Spanish Actions”). The Spanish Actions arise generally from a dispute between Mare as the Owners and Mangouras as the Master of the tank vessel PRESTIGE, on the one hand, and the Kingdom of Spain on the other. As demonstrated in the supporting material submitted herewith and in the previously filed pleadings in this case, Applicants believe ABS has additional documents which are relevant to the Spanish Actions. It is therefore necessary for Applicants to obtain additional document discovery from ABS relating to the Spanish Actions.

ABS conducts business and is found in New York. ABS was a party to a litigation pending in this district brought by the Kingdom of Spain. Moreover, ABS has already responded to the original Subpoena served in accordance with a previous Order of this Court.

**II. THE SUPPLEMENTAL APPLICATION COMPLIES WITH 28 U.S.C. § 1782**

As explained in more detail in the accompanying Memorandum of Law, Section 1782 of Title 28 of the United State Code allows applicants like Mare and Mangouras to obtain discovery from United States residents that is relevant to proceedings in a foreign jurisdiction. The statute provides, in relevant part, as follows:

- (a) The district court of the district in which a person resides or is found may order him to give testimony or statement or to produce a document or thing for use in a proceeding in a foreign or international tribunal, including criminal investigations conducted before formal accusations. The order may be pursuant to a letter rogatory issued, or request made, by a foreign or international tribunal or upon the application of any interested person and may direct that the testimony or statement be given, or the document or other thing be produced before a person appointed by the court.

Section 1782 has “broad applicability” to foreign litigation. *In re Application of Gianoli Aldunate*, 3 F.3d 54, 57 (2d. Cir. 1993). The subject Application fulfills all the requirements set forth in § 1782. First, ABS is present in the Southern District of New York and is doing business generally in New York. Second, the discovery the Applicants seek is narrowly tailored to obtain information relevant to the central issues in the Spanish Actions. The documents sought are for use in the Spanish Actions. Third, the Applicants are “interested persons” under § 1782 because each is a party to the Spanish Actions and directly involved in both the civil and criminal proceedings initiated by the Kingdom of Spain. Accordingly, the subject Application complies with all of the necessary elements under 28 U.S.C. § 1782. This Court (Kaplan, J.) has already found that the Application complies with 28 U.S.C. § 1782. The instant Supplemental Application is based on the same factual and legal bases as the Original Application.

### III. CONCLUSION

Based upon the foregoing, and the accompanying supporting materials, the Applicants respectfully move this Court to issue an Order:

1. Approving the Applicants' Supplemental Application for Discovery, including the scope and timing of the Supplemental Subpoena;
2. Authorizing the Applicants to serve the Subpoena in the form attached to the Supplemental Declaration of Thomas L. Tisdale as Exhibit B; and
3. Compelling ABS to produce the documents requested in Exhibit A to the Supplemental Subpoena on or before December 21, 2012.

Dated: New York, NY  
December 14, 2012

Respectfully submitted,  
Attorneys for Mare Shipping Inc.  
and Apostolos Mangouras,

By: 

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